

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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CATHERINE CONRAD

PETER OPPENEER
CLERK US DIST COURT
WD OF WI

Plaintiff,

Date: June 27, 2013

v.

Case No:

AM COMMUNITY CREDIT UNION

TODD STREETER

LORI M. SAUCIER

MIDCOAST FEDERAL CREDIT UNION

CREDIT UNION NATIONAL ASSOCIATION/
CUNA MANAGMENT SCHOOL

CUNA MUTUAL GROUP

DAVID POLET

Defendants'

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COMPLAINT

A. JURISDICTION

1. Catherine Conrad, Plaintiff, resides at 4230 East Towne Blvd., #183, Madison, WI 53704.
2. Defendant AM Community Credit Union is a business and employer of Defendant Todd Streeter located at 6715 Green Bay Road Kenosha, WI 53142.
3. Defendant Todd Streeter is the Chief Information Officer employed at AM Community Credit Union located at 6715 Green Bay Road Kenosha, WI 53142.
4. Defendant Lori M. Saucier is the Marketing Director employed at Midcoast Federal Credit Union located at 831 Middle Street, Bath, Maine 04530.

5. Defendant Midcoast Federal Credit Union is a business located at 831 Middle Street, Bath, Maine, 04530.

6. Defendant Credit Union National Association / CUNA Management School is a business located at 5710 Mineral Point Road, Madison, Wisconsin 53705-4454.

7. Defendant CUNA Mutual Group is a business located at 5910 Mineral Point Road, Madison, WI 53705.

8. Defendant David Polet is employed at CUNA Mutual Group located at 5910 Mineral Point Road, Madison, WI 53705.

BACKGROUND

9. Plaintiff realleges and incorporates by reference herein paragraphs 1- 8 inclusive and further states:

10. Catherine Conrad is a self-employed family entertainer who performs locally doing singing telegrams, corporate roast and toasts. Plaintiff also performs as her character the “Banana Lady © TM” which includes a health and wellness campaign for local, regional and national sponsors educating children and their families on eating right, keeping fit and financial health.

11. Defendant Todd M. Streeter is the Chief Information Officer for AM Community Credit Union in Kenosha, Wisconsin who posted photos and videos of Plaintiff’s Banana Lady©TM copyrights and trademarks on the internet and on his employer’s business website/face book page.

12. AM Community Credit Union is the employer of Todd M. Streeter and was at all times responsible for their employee’s actions of posting Plaintiff’s Banana Lady©TM copyrights and trademarks on the internet.

13. Lori M. Saucier is the person responsible for booking the Banana Lady©TM singing telegram entertainment and for communicating to audience members “before” the singing telegram performance, not to post photos or videos of Plaintiff’s Banana Lady ©TM on the internet without permissions or paying a license fee because it was a copyrighted and trademarked character. Lori M. Saucier also posted photos of Plaintiff’s Banana Lady©TM copyrights and trademarks on the internet.

14. Midcoast Federal Credit Union is the employer of Lori M. Saucier. At all times before, during and after the booking of Plaintiff's singing telegram and performance at the CUNA Management School was Ms. Saucier an employee representing Midcoast Federal Credit Union. Midcoast Federal Credit Union at all times is responsible for the actions of their employees.

15. Credit Union National Association / CUNA Management School is the trade association for credit unions across the United States and is the educational and advocacy arm for its members. This union holds the responsibility and operations for all educational programs and training schools for the credit unions they represent, which includes but is not limited to hosting and sponsoring the CUNA Management School. The infringements against Plaintiff occurred during the CUNA Management School of July 2011 which was jointly hosted with CUNA Mutual Group. The CUNA Management School and the Credit Union Trade Association are one in the same. This entity is liable for the actions of it’s attendees at the yearly school conference in July 2011.

16. David Polet was the class president of the July 2011 CUNA Management School conference that Plaintiff performed at which was held in Madison, WI. Lori M. Saucier gave her responsibility to Mr. Polet to make the announcement to audience members “before” the singing telegram performance, not to post photos or videos of Plaintiff’s Banana Lady ©TM on the internet without permissions or paying a license fee because it was a copyrighted and trademarked character. to the 2011 CUNA Management School class attendees “before” Plaintiff’s performance.

David Polet is responsible because he made the announcement to the CUNA Management School attendees "after" the telegram performance. David Polet also posted photos of Plaintiff's Banana Lady copyrights and trademarks on the internet.

17. CUNA Mutual Group and the Credit Union National Association are responsible together for hosting, sponsoring, booking and operations of the yearly CUNA Management School conference held in conjunction with the University of Madison Wisconsin Graduate School of Business. CUNA Mutual Group at all times was responsible for its employee David Polet

CAUSE OF ACTION

18. Plaintiff realleges and incorporates by reference herein paragraphs 1- 17 inclusive and further states:

19. July 13, 2011- Plaintiff Conrad received a phone call from Lori M. Saucier from Midcoast Federal Credit Union to provide a birthday singing telegram for one of their attendees at the CUNA Management School Conference in Madison, Wisconsin on July 14, 2011. Plaintiff told Lori M. Saucier that the "Banana Lady TM©TM" character they wanted was a federal copyright and trademark and not to post photos or videos of Banana Lady ©TM character on the internet without permissions or paying a license fee. The announcement regarding these laws and rules were to be communicated to the audience members "before" the performance. Lori M. Saucier agreed to the terms and said she'd let the class know in advance of the performance. Plaintiff performed on July 14, 2011.

20. Plaintiff learned over a week after the telegram performance that photos and videos were posted of the Banana Lady©TM copyrights and trademarks on the internet from the "Banana Lady TM performance at the CUNA Management School on July 14, 2011 from their attendees.

21. On July 25, 2011 Plaintiff contacted Lori M. Saucier and asked her to tell CUNA Management School Conference the attendees to remove any videos or photos posted on the internet of the Banana Lady©TM performance. Lori M. Saucier agreed and forwarded the message to all of the attendees from CUNA Management School.

22. On July 26, 2011 at 7:35 am Plaintiffs' received an email from Todd M. Streeter, Chief Information Officer of AM Community Credit Union from his work email: TMStreet@amccu.org. Mr. Streeter admitted in his email that he and the attendees from the CUNA Management School Conference posted their photos and videos on the internet of the "Banana Lady©TM" performance.

23. Plaintiff filed a civil state lawsuit against Todd Streeter and his employer AM Community Credit Union for damages, defamation and violation of the Right of Publicity. Later Plaintiff amended her complaint adding the remaining Defendants' listed above because of their liability and adding claims of copyright and trademark infringement. The courts eventually dismissed the federal claims due to the wrong jurisdiction. Currently Plaintiff is in the appellate court with the state claims of defamation and the right of publicity.

24. Mr. Streeter in his email states he and other attendees posted photos and videos of Plaintiff's copyrighted and trademarked character the Banana Lady©TM. None of these people had permissions from Plaintiff. Plaintiff saw photos and videos posted of her character the Banana Lady©TM performance of July 14, 2011 on the internet, which included photos and videos of the Banana Lady©TM posted on the CUNA Management School business face book page and the AM Community Credit Union business face book page.

25. Plaintiff's entire business is intellectual property and by law have to protect it or lose it. Mr. Streeter being a CIO, web designer, graphic designer and free lance photographer should know the laws regarding intellectual property, especially as CIO of AM Community Credit Union. Mr. Streeter does the credit union's website and is on the committee of the CUNA Management School

as well. It was Lori M. Saucier's responsibility to mitigate damages by following through per Plaintiffs' policy to notify the attendees at the CUNA Management School Conference "before" Plaintiff's performance not to post photos or videos of the Banana Lady©TM character and her performance without permissions and or paying a licensing fee. Lori M. Saucier was not present the day of the telegram performance. CUNA Management School class president, David Polet from CUNA Mutual Group supposedly made the announcement regarding Plaintiffs' policy of not posting Plaintiff's copyrights and trademarks on the internet, however did it "after" Plaintiff's performance and not before.

27. In addition to Todd Streeter and Lori M. Saucier posting Plaintiff's Banana Lady©TM character on the internet without permissions, Plaintiff received copies of emails sent from other CUNA Management School Conference attendees that proved they were posting photos and images of her copyrighted and trademarked character the "Banana Lady © TM on the internet without permissions and or paying a license fee as well.
28. Plaintiff obtained business insurance policies for AM Community Credit Union (Todd Streeter's employer)for both the basic and umbrella policies and the basic insurance policy from Midcoast Federal Credit Union (Lori M. Saucier's employer). These Defendants' have insurance coverage for copyright and trademark infringements. (See Exhibit D).
29. Joint and Several Liability - All Defendants' are jointly and severally liable for the lost income and infringements on Plaintiffs intellectual properties. Joint and several liability is when two or more persons are both responsible for a debt, claim or judgment Defendants in a civil suit can be held jointly and severally liable only if their concurrent acts brought about the harm to the plaintiff. The acts of the defendants do not have to be simultaneous: they must simply contribute to the same event. In fact, two or more people can be liable for the same act or acts. If parties have joint and several liability, then they are each liable up

to the full amount of the damages. All Defendants' share in the joint and several liability for the same act or acts that contributed to the harm and damages caused to Plaintiffs'. The CUNA Management School, CUNA Mutual Group and the Credit Union National Association are all intertwined and are connected. The CUNA Management School even sells their own merchandise so should understand intellectual property as well.

30. Duty of Care - All Defendants' and their school attendees had a duty of care, a legal obligation to adhere to a reasonable standard of care while performing any acts that could foreseeably harm Plaintiff. By breaching their duty of care in not making the announcement "before" the performance regarding the rules of posting photos and videos of Plaintiff's copyrighted and trademarked character of the Banana Lady©TM they all committed direct and contributory infringement and the damages caused by the photos and videos that were posted on the internet without permissions or paying a license fee.

CONCLUSION

Plaintiff had been actively pitching local television corporate sponsorships at \$130,000 each for her health and wellness financial family campaign starring her copyrighted and trademarked character the "Banana Lady TM" to banks and credit unions. Plaintiff was preparing to launch her campaign nationally after just receiving the copyright certificate for her campaign theme song "Money Money Money" when Defendants' posted photos and images of her intellectual property without permissions or paying a license fee. But for the negligent actions of all Defendants' Plaintiff would not have suffered damages. It is difficult to sell financial sponsorships for the Banana Lady©TM family health and wellness campaign when people are out there using her image and character for free.

CLAIMS

1. Copyright infringement – Plaintiff holds the valid official US Copyrights of the “Banana Lady” © TM, Reg. no. VA 1-724-407 and on Plaintiff Conrad Reg. no. VA 1-724-469 and on the “Banana Lady © TM costume, Reg. no. VA 1-822-243. (See Exhibit A)

2. Trade Dress violation of the Lanham Act 43, 15 U.S.C. 1125. The “Banana Lady © TM is distinctive, non-functional, and distinguishes traders or manufacturer’s products or services from those of others. Trade Dress includes appearances like size, color or combinations of color, shape or a product’s packaging. Distinctiveness is the most important aspect of the trade dress protection. Defendants’ posted videos on the internet in violation of Plaintiffs’ trade dress on the Banana Lady costume. Plaintiffs’ hold an official registered trademark in the “Banana Lady” © TM Reg. no. 3,452,811, June 4, 2008. (See Exhibit B).

3. Trademark Infringement whereas Defendants’ posted photos of the “Banana Lady © TM” and her name on the internet violating Plaintiffs’ registered trademark of the “Banana Lady © TM”, Reg. no. 3,452,811, June 4, 2008. (See Exhibit C).

4. Duty of Care – Duty of Care - All Defendants’ and their school attendees had a duty of care, a legal obligation to adhere to a reasonable standard of care while performing any acts that could foreseeably harm Plaintiff.

REQUEST FOR RELIEF

I, Catherine Conrad do request that I be allowed to commence this action without prepayment of fees and costs, or security therefore, pursuant to 28 U.S.C. & 1915. The attached affidavit of indigency had been completed and is submitted in support of this request for leave to proceed in forma pauperis.

1. Plaintiff prays for the courts to judge in their favor and against all Defendants listed in this case. Plaintiff is seeking:

2. Monetary relief as the courts deem fit for copyright infringement on the Banana Lady costume and its respective remedies
3. Monetary relief as the courts deem fit for trademark infringement and its respective remedies
4. Monetary relief as the courts deem fit for trade dress infringement and its respective remedies
5. Court costs and fees reimbursed
6. Joint and several liability - monetary relief for Plaintiff from all Defendants.
7. Duty of Care - monetary relief for Plaintiff from all Defendants.

Respectfully submitted,

Catherine Conrad
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Madison, WI 53704
Ph: 608-957-1393